

EXHIBIT A

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16 Attorneys for GENENTECH, INC.

18
19 UNITED STATES DISTRICT COURT
20 CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

21 CENTOCOR, INC.,
22 Plaintiff,

23
24
25 v.

26 GENENTECH, INC. AND CITY OF
27 HOPE NATIONAL MEDICAL
28 CENTER,
Defendants.

Case No: CV08-03573

**GENENTECH, INC.'S INITIAL
DISCLOSURE PURSUANT TO
FED. R. CIV. P. 26(a)(1)**

JURY TRIAL DEMANDED

Defendant Genentech, Inc. ("Genentech") hereby makes the following Initial Disclosures pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure.

I. INITIAL DISCLOSURES

A. Names and Addresses of Individuals (Fed. R. Civ. P. 26(a)(1)(A)(i)).

Genentech identifies the following individuals/entities and, where known, addresses and telephone numbers of individuals/entities likely to have discoverable information that Genentech may use to support its counterclaims or defenses, based on information reasonably available to Genentech at this time.

1. Various past and current employees or affiliates of Genentech or City of Hope ("COH") including, without limitation, the following individuals:

<u>Name</u>	<u>Contact</u>	<u>Subject</u>
Schmuel Cabilly, Ph.D.	COH Counsel ¹	Invention of subject matter claimed in U.S. Patent Nos. 4,816,567 and 6,331,415
Herbert L. Heyneker, Ph.D.	Genentech Counsel	Invention of subject matter claimed in U.S. Patent Nos. 4,816,567 and 6,331,415
William E. Holmes, Ph.D.	Genentech Counsel	Invention of subject matter claimed in U.S. Patent Nos. 4,816,567 and 6,331,415
Arthur D. Riggs, Ph.D.	COH Counsel	Invention of subject matter claimed in U.S. Patent Nos. 4,816,567 and 6,331,415
Ronald B. Wetzel, Ph.D.	Genentech Counsel	Invention of subject matter claimed in U.S. Patent Nos. 4,816,567 and 6,331,415
L. Jeanne Perry, Ph.D.	Genentech Counsel	Invention of subject matter claimed in U.S. Patent Nos. 4,816,567 and 6,331,415
Michael W. Rey	Genentech Counsel	Invention of subject matter claimed

¹ Initial contact with a witness should be directed to counsel for COH or Genentech, as indicated. Counsel may or may not be authorized to accept service on a designated witness's behalf.

		in U.S. Patent Nos. 4,816,567 and 6,331,415
Michael B. Mumford	Genentech Counsel	Invention of subject matter claimed in U.S. Patent Nos. 4,816,567 and 6,331,415
John E. Shively, Ph.D.	COH Counsel	Invention of subject matter claimed in U.S. Patent Nos. 4,816,567 and 6,331,415
Yvonne Bobadilla	COH Counsel	Invention of subject matter claimed in U.S. Patent Nos. 4,816,567 and 6,331,415
Kate H. Murashige, Esq.	Morrison & Foerster, LLP 3811 Valley Centre Drive Suite 500 San Diego, CA 92130 T: (858) 720-5112	Invention of subject matter claimed in U.S. Patent Nos. 4,816,567 and 6,331,415; preparation of U.S. Patent Application No. 06/483,457
Max Hensley, Esq.	Genentech Counsel	Prosecution of U.S. Patent Nos. 4,816,567 and 6,331,415
Wendy Lee, Esq.	Genentech Counsel	Prosecution of U.S. Patent Nos. 6,331,415, and 6,417,335.
Sharon Crane, Esq.	Bingham McCutchen LLP 2020 K Street, NW Washington, DC 20006 T: (202) 373-6000	Prosecution of U.S. Patent No. 6,331,415
R. Danny Huntington, Esq.	Bingham McCutchen LLP 2020 K Street, NW Washington, DC 20006 T: (202) 373-6000	Interference No. 102,572
Tim Schwartz, Esq.	Genentech Counsel	Licensing of U.S. Patent No. 6,331,415
Sue Desmond Hellman, MD	Genentech Counsel	Commercial success of products made pursuant to the teachings of U.S. Patent No. 6,331,415
John Orwin	Genentech Counsel	Commercial success of products

		made pursuant to the teachings of U.S. Patent No. 6,331,415
Henry Lowman, Ph.D	Genentech Counsel	Methods of creating products made pursuant to the teachings of U.S. Patent No. 6,331,415
Gregory S. Blank	Genentech Counsel	Invention of subject matter claimed in U.S. Patent No. 6,417,335.
Carol D. Basey	Genentech Counsel	Invention of subject matter claimed in U.S. Patent No. 6,417,335.

2. Other individuals or entities including, without limitation, the following entities:

Global Pharmaceutical Supply Group LLC	3 Gateway Center 16th Floor Westwing Pittsburgh, PA 15222	Manufacture and supply of ReoPro, Remicade, CNTO 1275, and CNTO 148.
Centocor Biologics LLC		Manufacture and supply of ReoPro, Remicade, CNTO 1275, and CNTO 148.
Centocor B.V.		Manufacture and supply of ReoPro, Remicade, CNTO 1275, and CNTO 148.
JOM Pharmaceuticals		Sales and distribution of ReoPro, Remicade, CNTO 1275, and CNTO 148.

B. Documents and Tangible Things (Fed. R. Civ. P. 26(a)(1)(A)(ii)).

Copies of the non-privileged documents in Genentech's possession, custody, or control that Genentech may use to support its counterclaims and defenses (unless solely for impeachment) will be produced to plaintiff Centocor. Such documents include, but are not limited to, documents relating to the inventions claimed in U.S. Patent Nos. 4,816,567, 6,331,415, and 6,417,335, documents relating to the prosecution of U.S. Patent Nos. 4,816,567, 6,331,415, and 6,417,335, documents relating to Interference No. 102,572, documents relating to the case captioned

1 *Genentech, Inc. v. Celltech Therapeutics, Ltd.*, Case No. C-98-3926 MMC (Section
2 146 proceeding), and documents relating to license agreements for U.S. Patent Nos.
3 4,816,567, 6,331,415, and 6,417,335. Genentech has already produced the
4 prosecution histories of U.S. Patent Nos. 4,816,567, 6,331,415, and 6,417,335;
5 certain documents relating to Interference No. 102,572; and certain documents
6 relating to Reexamination Control Nos. 90/007,859 and 90/007,542. These
7 documents are and will be disclosed subject to, and without waiver of, the
8 protections from disclosure afforded by the attorney-client privilege and the work
9 product doctrine. Genentech reserves the right to object to the production of any
10 document based on privilege or any other proper ground. Genentech will produce
11 confidential, non-privileged documents after the entry of an appropriate protective
12 order.

13 Because discovery and investigation are continuing, Genentech anticipates
14 that it may later become aware of, or appreciate the significance of, additional
15 documents and things in the possession, custody, or control of Genentech. Without
16 obligating itself to do so, Genentech reserves the right to supplement this initial
17 disclosure pursuant to Rule 26(e) of the Federal Rules of Civil Procedure.

18 By providing the documents identified herein, Genentech does not waive the
19 right to object to the production of other documents and things on the basis of any
20 privilege or work-product protections, nor does Genentech concede that these
21 documents necessarily are relevant to or admissible in this action. All evidentiary
22 objections to the use of such documents are reserved.

23 **C. Damages (Fed. R. Civ. P. 26(a)(1)(A)(iii)).**

24 Genentech seeks damages to the extent permissible under the applicable laws.
25 At this point, Genentech has not yet determined the full extent and/or nature of the
26 injuries it has suffered and continues to suffer as a result of Centocor's infringement
27 and imminent infringement. At a minimum, Genentech intends to seek a reasonable
28 royalty for each infringing product made, sold, offered for sale, used, and/or

1 imported into the United States by, for, and/or on behalf of Centocor and/or as a
2 result of Centocor's inducement of infringement and/or contributory infringement.
3 Genentech also intends to seek treble damages and its attorneys fees due to
4 Centocor's willful infringement of the '415 patent. Once Genentech has received
5 information and documents from Centocor, Genentech will supplement its
6 disclosure in accordance with Rule 26(e) of the Federal Rules of Civil Procedure or
7 in the form of an interrogatory response if such an interrogatory is served, or
8 through expert reports.

9 **D. Insurance Agreements (Fed. R. Civ. P. 26(a)(1)(A)(iv)).**

10 Genentech is presently unaware of any insurance agreements applicable to the
11 claims asserted in the Complaint. Because discovery and investigation are
12 continuing, Genentech reserves the right to supplement the initial disclosures
13 pursuant to Rule 26(e) of the Federal Rules of Civil Procedure.
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15
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17 Dated: February 23, 2009

18 KIRKLAND & ELLIS LLP

19 By: /s/ Marcus E. Sernel
20 Marcus E. Sernel (pro hac vice)
21 KIRKLAND & ELLIS LLP
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25
26 *Attorney for Defendant Genentech, Inc.*
27
28

PROOF OF SERVICE

I, Shira J. Kapplin, am employed in the County of Cook, State of Illinois. I am over the age of 18 and not a party to the within action. My business address is 200 E. Randolph Street, Chicago, Illinois 60601.

On February 23, 2009, I served a true copy of the following document(s) described as:

**GENENTECH, INC.'S INITIAL DISCLOSURE PURSUANT
TO FED. R. CIV. P. 26(a)(1)**

on the interested parties in this action as follows:

☐ **By U.S. Mail:** By placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California to the addressee(s) set forth below. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing.

☒ **By Fedex:** By placing the document(s) listed above in a sealed overnight courier envelope addressed as set forth above and routing the envelope for pick up with Federal Express for overnight delivery.

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Executed February 23, 2009, at Chicago, Illinois.

Shira J. Kapplin
Print Name

/s/ Shira J. Kapplin
Signature